

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 90-27-T- ORDER NO. 90-671

August 8, 1990

IN RE: Application of Robert M. Pearson d/b/a)
MVP Movers, 8416-F Willard Road,) ORDER
Spartanburg, SC 29303 (mailing address -) GRANTING
7220 Wood Street, Spartanburg, SC 29303)) CERTIFICATE
to amend Class E Certificate No. 8142-A.)

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of an Application filed on January 9, 1990, by Robert M. Pearson d/b/a MVP Movers (the Applicant) for approval of an amendment of its Class E Certificate of Public Convenience and Necessity No. 8142-A, which reads as follows:

HOUSEHOLD GOODS: Between points and places in Cherokee and Spartanburg Counties.

The amended Certificate would read as follows:

HOUSEHOLD GOODS: Between points and places in Cherokee, Greenville, Spartanburg, and Union Counties.

Subsequent to the initiation of this proceeding, the Commission Staff instructed the Applicant to cause to be published a prepared Notice of Filing in certain newspapers of general circulation in the State of South Carolina. The Notice of Filing indicated the nature of the Application and advised all interested

parties desiring to participate in the proceeding of the manner and time in which to file the appropriate pleadings. The Notice of Filing was duly published in the State Register.

A Petition to Intervene out of time was filed by Carey Moving and Storage, Inc. (the Intervenor), which was granted by the Commission in our Order No. 90-280, issued previously in this docket.

Pursuant to notice duly given, a hearing was held at the Offices of the Commission on June 28, 1990, the Honorable Caroline H. Maass presiding. The Applicant appeared pro se; the Intervenor was represented by David G. Ingalls, Esquire; and the Commission Staff was represented by H. Clay Carruth, Staff Counsel.

Testifying on behalf of the Applicant was Robert M. Pearson of Spartanburg, South Carolina, owner and principal of the Applicant.

Testifying on behalf of the Intervenor were: John Austin, Jr., President of Austin Moving and Storage of Greenville, South Carolina; Jim Mullen, Director of Sales and Marketing for Smith Dray Line and Storage of Spartanburg, South Carolina; and Robert L. Clusterman, President of Greenville-Spartanburg Moving and Storage Co., Inc., of Greenville, South Carolina.

According to S.C. Code Ann., §58-23-330 (1989 Cum. Supp.), an applicant applying for a certificate to operate as a motor vehicle common carrier may be approved upon a showing that the applicant is fit, willing and able to appropriately perform the proposed

service; provided, however, if an intervenor shows or if the Commission determines that the public convenience and necessity is already being served, the Commission may deny the application.

If an application is denied, another application may not be made until at least six months have elapsed since the date of the denial.

FINDINGS OF FACT

Upon consideration of the information contained in and attached to the Application, and the testimony and exhibits of the witnesses, the Commission finds the following facts:

1. That the Applicant has been operating as a certificated intrastate motor carrier of household goods in Cherokee and Spartanburg Counties for approximately one (1) year under authority granted by this Commission.

2. That the Applicant has on file with this Commission evidence of cargo and liability insurance as required by the Commission's Regulations.

3. That the Applicant maintains a tariff on file with the Commission as required by the Commission's Regulations.

4. That the Applicant has two (2) fulltime employees, and employs casual labor from time to time as needed, under supervision of experienced employees.

5. That the Applicant has, since commencing operations, upgraded his equipment by the purchase of two (2) new trucks--a sixteen-foot Chevrolet W-4 and a thirty-foot Chevrolet C-60.

6. That the Applicant intends to accomodate previous customers, and those referred to him by previous customers, by providing a small-job household goods service in the four (4) contiguous counties for which authority is sought, and charging on a per hour basis.

7. That the Intervenor did not present the testimony of any shipper witnesses, or any evidence of expert testimony concerning, or surveys taken of, market conditions.

CONCLUSIONS OF LAW

Section 58-23-330, supra, imposes upon an applicant the burden of demonstrating that it is fit, willing and able to appropriately perform the proposed motor carrier services. The Statute imposes upon any intervenor(s) the burden of demonstrating that the public convenience and necessity is already being served by those certificated motor carriers authorized to provide the motor carrier services for which the applicant seeks authority.

Based on the facts found hereinabove, as well as the evidence in the entire record herein, the Commission finds and concludes that the Applicant has demonstrated its fitness, willingness and ability to appropriately perform the proposed motor carrier services, while the Intervenor has not demonstrated that the public convenience and necessity is already being served by it and/or other certificated motor carriers authorized to provide the proposed motor carrier services.

Therefore, the Commission reaches the following conclusions of law:

1. That the Applicant is fit, willing and able to appropriately perform the proposed motor carrier services.

2. That the public convenience and necessity is not already being served as to the motor carrier services proposed in the instant Application.

IT IS THEREFORE ORDERED:

1. That the Application for approval of an amendment of Class E Certificate of Public Convenience and Necessity No. 8142-A be, and hereby is, approved.

2. That the Applicant file the proper license fees and other information required by S.C. Code Ann., Section 58-23-10 et seq. (1976), as amended, and by R.103-100 through R.103-280 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976), as amended, within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.

3. That upon compliance with S.C. Code Ann., Section 58-23-10, et seq. (1976) as amended, and the applicable provisions of R.103-100 through R.103-280 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976), as amended, a certificate shall be issued to the Applicant authorizing the motor carrier services granted herein.

August 8, 1990

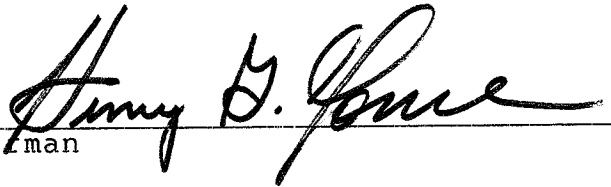
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4. That prior to compliance with such requirements and receipt of a certificate, the motor carrier services authorized herein may not be provided.

5. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

VICE Chairman



ATTEST:


Executive Director

(SEAL)